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| APPLICATION NO.          | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--------------------------|-------------|----------------------|---------------------|------------------|
| 10/597,786               | 08/08/2006  | Hideaki Matsuo       | 41086               | 6315             |
| 52054                    | 7590        | 02/18/2009           | EXAMINER            |                  |
| PEARNE & GORDON LLP      |             |                      | WONG, JOSEPH D      |                  |
| 1801 EAST 9TH STREET     |             |                      |                     |                  |
| SUITE 1200               |             |                      | ART UNIT            | PAPER NUMBER     |
| CLEVELAND, OH 44114-3108 |             |                      | 2166                |                  |
|                          |             |                      |                     |                  |
|                          |             |                      | NOTIFICATION DATE   | DELIVERY MODE    |
|                          |             |                      | 02/18/2009          | ELECTRONIC       |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patdocket@pearne.com  
dchervenak@pearne.com

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 10/597,786             | MATSUO ET AL.       |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | JOSEPH D. WONG         | 2166                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 08 August 2008.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-9 and 11 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-9 and 11 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 8 August 2008 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>20070308, 20060905</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Specification***

Instant specification, paragraph 2 is objected under MPEP 608.01 (VII) for citing a hyperlink without the document and also not conforming to the formal alternative of an appropriate IDS citation with legible copy. Appropriate correction is requested.

The instant abstract is objected to for having a minor informality of including reference numbers.

The instant title is objected to for being redundant and not descriptive of the invention: "Information Terminal, Time Table Information Display Program, and Time Table Information Display Method". The following title is recommended: "Timetable Information Terminal Display".

### ***Information Disclosure Statement***

See instant specification paragraph 2 which cites a hyperlink. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

The information disclosure statements filed 8 March 2007 and 5 September 2006 do not comply with 37 CFR 1.98(a)(2), which **requires a legible copy** of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and

all other information or that portion which caused it to be listed. Missing documents are flagged on the annotated but not considered IDS. The IDSes have been placed in the application file, but the information referred to therein has not been considered. Appropriate compliance is required.

### ***Drawings***

Fig. 3 is objected under 37 CFR 1.84 for not showing reference numbers such as "10", "13", and "S105" in instantly published specification that are mentioned in instantly published specification paragraph [48]. Note that reference numbers should not be enclosed in an outline.

Fig. 3 is objected to under 37 CFR 1.84 for having some fonts that appear smaller than 1/8 inch in the instantly published application. Appropriate correction or clarification is required.

Fig. 7 is objected under 37 CFR 1.84 for placing the number 16 upon a shaded surface.

### ***Claim Objections***

**Claim 11** is objected to under 37 CFR 1.121 for having an informality in claim numbering and introducing an ambiguity in claim status.

**Claims 1-11** are objected for submitting two sets of claims on the same day.

Consistent with technology center policy and in the interests of expediting prosecution, these informalities are identified and dealt with as best understood by the Examiner. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

**Claims 1-6, 9, 11 are rejected for being directed towards nonstatutory subject matter.**

**Claim 1** is directed towards an information terminal capable of displaying timetable information on a display portion. Claim 1 appears limited to an apparatus consisting of nonfunctional descriptive matter per se or software per se because a terminal is defined within IEEE or Microsoft Computer Dictionary to be inclusive of an alphabet or software for a general purpose computer. Software per se is not one of the four categories of invention. Software per se is not a series of steps or acts and thus is not a process. Software per se is not a physical article or object and as such is not a machine or manufacture. Software per se is not a combination of substances and therefore is not a composition of matter. Therefore dependent **claims 2-5** are not statutory.

**Claim 6** is directed towards a server for transmitting timetable information. Claim 5 appears directed to an apparatus consisting of nonfunctional descriptive matter per se or software per se because “server” appears exemplified in instantly published specification paragraph [65] by referring to Fig. 9 yet no physical article is observed in the flow chart of Fig. 9 which appears algorithmic or instructions for software. Software per se is not one of the four categories of invention. Software per se is not a series of steps or acts and thus is not a process. Software per se is not a physical article or object and as such is not a machine or manufacture. Software per se is not a combination of substances and therefore is not a composition of matter. Therefore dependent **claims 7-8** are not statutory.

**Claim 9** is directed towards a method for causing a display portion to display timetable information. However, this claim appears directed to a product claim and purports to cause a machine without identifying the function element of an operational element within the body of the claim that is tied to another statutory class such as an apparatus with a physical article in the body of the claim or said article performing a transformative step. This is called the “**machine-or-transformation test**”. See *In re Bilski*. Therefore dependent claim 11 is not statutory.

Applicants can look to MPEP 2106.01-2106.02 (July 2008), Clarification of Processes under 35 USC 101, Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility, Instant Specification, and contemporary case law with a matching fact pattern for further suggestions that may be helpful in overcoming these rejections.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1- 6, 9, 11 are rejected under 35 U.S.C. 102(e) as being anticipated by**

**Kirmuss, (US 2003/0081121), hereinafter Kirmuss.**

**As to claim 1,** Kirmuss teaches an information terminal capable of displaying timetable information on a display portion (¶[66], “camera means to display; ¶[97], “real-time clock data....second-by-second analysis”), comprising: a storage unit that stores the timetable information (Fig. 6B, “alarm trigger...ex siren activation t=0 sec...duration of alarm event ex: video of traffic stop t=4 mins”; ¶[188], “continue for a specified period of time...2 additional minutes”); a time information acquiring unit that acquires time information (Fig. 5, "start timer, shut down timer"); a comparing unit that compares the timetable information with the time information (Fig. 5, see shutdown timer; ¶[188], “continue for a specified period of time...2 additional minutes”); a selecting unit that partially selects timetable information after a time specified by the time information from the timetable information (¶[188], “specified period of time...2 additional minutes”; ¶[185], “start/shutodwn timer 518 is initiated to produce the desired time lapse 520”; Fig. 5, "start timer, shut down timer"), based on a compared result (see ¶[188], “2 additional minutes”; Fig. 5, "start timer, shut down timer"; Fig. 7, inequality comparisons ); and a display controlling unit that causes the display portion to display the selected timetable information (¶[95], ¶[102], as shown in FIG. 1B).

**As to claim 2,** Kirmuss teaches the information terminal (Fig. 2, item 280, e.g. “law enforcement data terminal”, Fig. 2, "monitor[s] 1-2 output"), wherein the display controlling unit changes a display mode of the selected timetable information in response to a time difference from the time information (Fig. 6B, “alarm trigger...ex siren activation t=0 sec...duration of alarm event ex: video of traffic stop t=4 mins”; ¶[188], “continue for a specified period of time...2 additional minutes”; ¶[95], “sliding (or rolling) time interval”).

**As to claim 3,** Kirmuss teaches the information terminal (Fig. 2, item 223 ), comprising: a timetable information acquiring unit that acquires the timetable information (Fig. 6B, “”alarm trigger...ex siren activation t=0 sec...duration of alarm event ex: video of traffic stop t=4 mins”; ¶[188], “continue for a specified period of time...2 additional minutes”; ¶[148], “before the system times out....shutdown timer is reset”).

**As to claim 4,** Kirmuss teaches the information terminal (Fig. 2, item 280, e.g. “law enforcement data terminal”, Fig. 2, "monitor[s] 1-2 output"), wherein the timetable information acquiring unit reads the timetable information from image data via character recognition ([ ]).

**As to claim 5,** Kirmuss teaches the information terminal (Fig. 2, item 280, e.g. “law enforcement data terminal”, Fig. 2, "monitor[s] 1-2 output"), further comprising: a timetable information selecting unit that selects timetable information (Fig. 6B, “”alarm trigger...ex siren activation t=0 sec...duration of alarm event ex: video of traffic stop t=4 mins”; ¶[188], “5 minutes of recording...are preserved for long-term storage”; ¶[43], “real-time....30 frames per second” ), which is compared with the time information (¶[188], “continue for a specified period of time...2 additional minutes”; ¶[185], “start/shutodwn timer 518 is initiated to produce the desired time lapse 520”), from the timetable information stored in the storing unit based on present position information and destination (¶[181], “target vehicle...moving target”).

**As to claim 6,** Kirmuss teaches a server for transmitting timetable information (Fig. 2, item 280, e.g. “law enforcement data terminal”, Fig. 2, "monitor[s] 1-2 output"), comprising: a transmitting unit that transmits timetable information after a time specified by the time information from the timetable information that are partially selected from the timetable

information based on a comparison between the timetable information and the time information (¶[188], "continue for a specified period of time...2 additional minutes"; ¶[185], "start/shutodwn timer 518 is initiated to produce the desired time lapse 520").

**As to claim 9,** Kirmuss teaches a method for causing a display portion to display timetable information (Fig. 2, item 280, e.g. "law enforcement data terminal", Fig. 2, "monitor[s] 1-2 output"), comprising: comparing the timetable information with the time information (¶[185], "start/shutodwn timer 518 is initiated to produce the desired time lapse 520"); selecting partially the timetable information after a time specified by the time information from the timetable information (¶[188], "continue for a specified period of time...2 additional minutes"; ¶[185], "as shown in FIG. 5, once the ignition is on 502, the recording may be started 514 or a temperature analysis timer may be started"), based in a compared result (see ¶[188], "2 additional minutes"; Fig. 5, "start timer, shut down timer"; Fig. 7, inequality comparisons ); and causing the display portion to display the selected timetable information (Fig. 5, ¶[185], "heads-up display").

**As to claim 11,** Kirmuss teaches the method, wherein a display mode of the timetable information displayed on the display portion is changed in response to a difference from the time information as a criterion (¶[185]. "configure recording stop and system shut-down times...this programming also may be down via a heads-up display").

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph D. Wong whose telephone number is 571-270-1015. The examiner can normally be reached on Mondays through Fridays from 10 AM - 6 PM.

Applicant initiated interviews may be formally requested in advance by faxing a completed PTO-413A form to the Examiner's personal fax number at 571-270-2015. Form PTO-413A is used by the Examiner to prepare for any proposed interview. A detailed agenda listing should be attached including any proposed claim language and/or arguments that will be presented. This form is used to determine whether any proposed interview would advance prosecution and fit within a prescribed time limit.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain T. Alam can be reached on (571) 272-3978. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/JDW/  
Asst. Examiner, Art Unit 2166  
13 February 2009

/Hosain T Alam/

Supervisory Patent Examiner, Art Unit 2166